APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,937	03/11/2004	Avinoam Rubinstain	REIIP10IUSA	4875

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EXAMINER
SHAH, ANTIM G

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
08/11/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing@eschweilerlaw.com

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/797,937	RUBINSTAIN ET AL.
	Examiner	Art Unit	
	ANTIM SHAH	2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>29 July 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/Ahmad F Matar/
Supervisory Patent Examiner, Art Unit 2614

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 6/15/2009 have been fully considered but they are not persuasive. On Page 10 of applicant's remark, the applicant argues the following:
    "It is respectfully submitted that Timm et al. fail to anticipate the claimed invention under the doctrine of inherency because there is no disclosure in Timm et al. that the DSL router 330 operates to assemble the upstream DSL signals into a single Ethernet signal for transmission as claimed. Further, there is no implication in the cited art that such functionality must necessarily occur. Col. 16, lines 9-11 of Timm et al. simply states that the DSL modem 330 acts as a router for the LAN 320. No language in the reference indicates that it also performs an re-assembling of data, nor would such functionality be required or necessary…."

The Examiner respectfully disagrees with the applicant's arguments for the following reasons: Timm discloses the modem communication system with receiving and transmitting paths with a switch which multiplexes either the training sequence or output data into the transmission path (Timm abstract). Timm also discloses management process for a Mid-band DSL (MDSL) lines which provides a simple, efficient and flexible interface to manage the line connection between MDSL-C (central office site) and MDSL-R (residential site) [column 7 lines 16-30, column 10 lines 1-13, column 15 lines 66 to column 16 lines 26]. Fig. 3b shows "MDSL modem" acting as router. But it is still a MDSL modem. DSL modems that manage connection with a group of machines are termed as DSL router. But they still have function of performing framing data, segmenting data and reassembling data. Timm discloses MDSL modem that sends and receives the data from MDSL ports and Ethernet ports. It is inherent to sequence, split and re-assemble the data frames. Fig. 3b clearly shows that the residential modems (340, 342 and 344) are connected to a central office modem (330). The same figure 3b also clearly shows that the central office modem 330 is connected to a Local Area Network (320). It is very clear that the residential modems communicate with central office modem in DSL signals (in DSL format). And it is also very clear that if the central modem combines DSL signals from residential DSL modems into ethernet to send over the LAN. Even, if the central office modem 330 acts as a router, it must communicate with the residential modems with DSL signals (in DSL format) and It must convert/reorganize DSL signals to the ethernet frames to send over the LAN. To further clarify, Fig. 3a shows PC 310 communicating over a subscriber line 140 with a corresponding modem 100 in the cetral office 200(Gang modem), which is connected to Internet access server via an Ethernet interface [column 15 lines 65 to column 16 lines 4]. Thus, Timm discloses a data collection reorganization unit as claimed in claims 1, 17 and 19..